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November 21, 2023

VIA ECF

The Honorable Cecelia G. Morris
United States Bankruptcy Judge
United States Bankruptcy Court
Southern District of New York
355 Main Street
Poughkeepsie, New York 12601-3315

Re: *Picard v. Malcolm Sage*, Adv. Pro. No. 23-01099 (CGM) (Bankr. S.D.N.Y.)

Dear Judge Morris:

We are counsel to Irving H. Picard, trustee (the “Trustee”) for the substantively consolidated liquidation proceedings of Bernard L. Madoff Investment Securities LLC and the chapter 7 estate of Bernard L. Madoff under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa–III. We write to respectfully request that the hearing on the Trustee’s proposed order, submitted on presentment, implementing the Memorandum Decision Denying in Part and Granting in Part Defendants’ Motion to Dismiss (the “Opinion,” ECF No. 44), be heard at the same time as the hearing on Defendants’ letter-request dated October 13, 2023 (the “October 13 Letter,” ECF No. 45), which is currently scheduled for November 29, 2023, at 10:00 am.

The Trustee’s proposed order (with opposition) and Defendants’ October 13 Letter concern interrelated issues. In their October 13 Letter, Defendants request that Your Honor convert the Opinion to proposed findings of fact and conclusions of law because the Bankruptcy Court lacks the authority to enter an order on their Motion to Dismiss. Defendants’ letter-request is scheduled to be heard on November 29, 2023 at 10:00 am. ECF No. 53. On October 17, 2023, the Trustee submitted a letter in response arguing that Your Honor has full authority to enter the Trustee’s proposed order as the Opinion is interlocutory. On October 17, 2023, the Trustee also submitted the proposed order implementing Your Honor’s Opinion on presentment. Not. of Presentment, ECF No. 48. On November 15, 2023, Defendants objected to entry of the proposed order, again arguing that Defendants have not consented to the Bankruptcy Court’s “statutory authority.” Opposition, ECF No. 54. Presentment of the Trustee’s proposed order was originally returnable on November 16, 2023, the previously scheduled omnibus hearing date, but was subsequently

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rescheduled to December 20, 2023. ECF No. 55. Given that the Trustee's notice of presentment and Defendants' letter request involve interrelated issues, they should both be heard on November 29, 2023.

We thank Your Honor for consideration of this request.

Respectfully submitted,

/s/ Lan Hoang
Lan Hoang

cc: Counsel of Record (via ECF)